

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:23-CV-00009-MOC-WCM

DJ-MT, LLC and DANIEL LARIMER,)
)
Plaintiffs,)
)
v.)
)
DJ3, LLC; The LANDING STRIP,)
INC.; SAVE A CHILD, LLC; and)
DENNIS HULSING;)
Defendants.)
_____)

ORDER

This matter is before the Court on Plaintiffs' Discovery Conference Request (the "Request," Doc. 68).

The record indicates that on November 6, 2023, Plaintiffs served a subpoena ("Subpoena") on Engel Loan Brokerage and Consulting Group, LLC ("Engel") directing that certain documents be produced on December 1, 2023. Doc 40-1.

On November 28, 2023, Defendants moved to quash the Subpoena. Doc. 40. That motion, along with others, was denied without prejudice on December 14, 2023. Doc. 48.

On December 29, 2023, the parties requested a discovery conference concerning the Subpoena and other matters. Doc. 50. Their request was

granted, and a discovery conference was conducted on January 11, 2024.¹ The undersigned made oral rulings at the conclusion of that conference and those rulings were memorialized in a written order filed the next day. Doc. 53. As to the Subpoena, the Court directed that responsive materials be provided to counsel for Defendants for review and that, promptly upon completion of the review, Defendants' counsel was to produce those materials to Plaintiffs' counsel.²

In their Request, Plaintiffs state that they believe "Engel has not complied with the Subpoena in good faith, has evaded production, and likely produced an incomplete production to Defendants' counsel." Specifically, Plaintiffs state that they "seek verification from Engel that its production is truthful, accurate, and complete." Doc. 68 at 2-3.

Given that the relief Plaintiffs are seeking may involve adverse consequences against Engel and further as this discovery dispute has arisen late in this case – a motion for partial summary judgment has been filed and argued and trial is approximately one month away – the Request will be

¹ A Pretrial Order and Case Management Plan entered in early May 2023 set December 4, 2023 as the deadline for court-enforceable discovery. Doc. 27. That deadline was later extended to and including January 19, 2024.

² Although not relevant here, the Court also modified the timeframe for the materials sought by the Subpoena.

denied, though Plaintiffs will be given leave to file a contested motion regarding the Subpoena and an abbreviated briefing schedule will be set.

IT IS THEREFORE ORDERED THAT:

1. Plaintiffs' Discovery Conference Request (Doc. 68) is **DENIED**.
2. Plaintiffs may file a contested motion regarding the Subpoena, provided that:
 - a. No such motion may be filed unless and until Plaintiffs have attempted to confer further with Engel and Defendants in good faith regarding the disputed issues;
 - b. Any such motion:
 - i. Shall be filed no later than NOON on Friday, **May 10, 2024**;
 - ii. May be no longer than five (5) pages in length; and
 - iii. Shall include an explanation by Plaintiffs as to why their objection to Engel's response to the Subpoena was not raised previously.
3. Any response by Defendants or Engel to such a motion:
 - a. Shall be filed no later than NOON on **Tuesday, May 14, 2024**; and
 - b. May be no longer than five (5) pages in length.
4. No replies will be allowed absent leave of Court.

5. Plaintiffs' counsel is directed to transmit a copy of this Order to Engel or its counsel and to file proof of same.

Signed: May 8, 2024

A handwritten signature in black ink, reading "W. Carleton Metcalf", written over a horizontal line.

W. Carleton Metcalf
United States Magistrate Judge

